



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**FEB 17 2010**

REPLY TO THE ATTENTION OF:

AE-17J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

John Essman  
General Manager  
Haverhill North Coke Company  
2446 Gallia Pike  
Franklin Furnace, Ohio 45629

Re: Notice and Finding of Violation at Haverhill North Coke Company, Franklin Furnace

Dear Mr. Essman:

This is to advise you that the U.S. Environmental Protection Agency has determined that Haverhill North Coke Company's (Haverhill North Coke's) facility at 2446 Gallia Pike, Franklin Furnace, Ohio, is in violation of the Clean Air Act (CAA) and associated state or local pollution control requirements. A list of the requirements violated is provided below. We are today issuing you a Notice of Violation and Finding of Violation (NOV/FOV) for these violations.

Haverhill North Coke's PSD Permit to Install (PTI) limits emissions of particulate matter (PM), particulate matter 10 (PM10), carbon monoxide (CO), nitrogen oxides (NOx), sulfur dioxide (SO<sub>2</sub>) and volatile organic matter (VOM). The purpose of these emissions limits is to help protect the public from unhealthy exposures to criteria pollutants, emissions of which contribute to respiratory problems, lung damage and premature deaths.

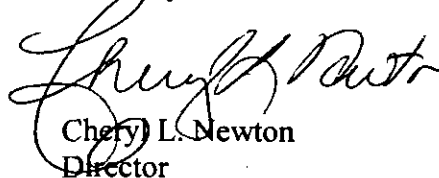
Based on data submitted to EPA on April 28, 2006, December 11, 2009 and December 18, 2009, Haverhill North Coke has violated and continues to violate provisions in its PSD permit that govern bypass venting, emissions limits, and continuous emission monitoring (CEMS) standards for units P901 and P902 coke batteries. Violation of these requirements is also a violation of the Ohio State Implementation Plan (SIP), as well as Title I, Part C of the CAA and its associated regulations which require compliance with the terms and conditions of PSD permits. Accordingly, Haverhill North Coke has violated Title I of the CAA and its implementing regulations.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order,

bringing a judicial civil action, and bringing a judicial criminal action. Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice and any conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent you at this conference.

EPA's contact in this matter is Gina Harrison. You may call her at (312) 353-6956 if you wish to request a conference. EPA hopes that this NOV/FOV will encourage Haverhill North Coke's compliance with the requirements of the CAA.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl L. Newton".

Cheryl L. Newton  
Director

Air and Radiation Division

Enclosure

cc: John Paulian, Division of Air Pollution Control  
Ohio Environmental Protection Agency

Cindy Charles, Director, Air Pollution Unit  
Portsmouth City Health Department

**United States Environmental Protection Agency  
Region 5**

**IN THE MATTER OF:**

Haverhill North Coke Company  
Franklin Furnace, Ohio

Proceedings Pursuant to  
the Clean Air Act,  
42 U.S.C. §§ 7401 et seq.

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( **FINDING OF VIOLATION**  
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**NOTICE AND FINDING OF VIOLATION**

EPA is issuing this Notice and Finding of Violation (Notice) under Section 113 of the Clean Air Act, 42 U.S.C. § 7413(a)(1). The authority to issue this Notice has been delegated to the Regional Administrator of the EPA Region 5, and redelegated to the Director, Air and Radiation Division. EPA finds that Haverhill North Coke Company (Haverhill North Coke or facility), is violating the Clean Air Act (Act), 42 U.S.C. §§ 7401 *et seq.*, at the Haverhill North Coke Plant in Franklin Furnace, Ohio, as follows:

**Applicable Permits and Regulations:**

1. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to EPA for approval, SIPs providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. EPA has promulgated NAAQS for, among other pollutants, nitrogen oxides (NO<sub>x</sub>), particulate matter (PM) and sulfur dioxide (SO<sub>2</sub>).
2. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.
3. On November 1, 1982, the Administrator of EPA approved OAC Rule 3745-15 as part of the federally enforceable SIP for the State of Ohio. 47 Fed. Reg. 43377. OAC Rule 3745-

15 regulates general provisions, including but not limited to malfunctions at stationary sources, scheduled maintenance, and reporting.

4. 40 C.F.R. § 63.6(e)(1)(i) requires that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.
5. 40 C.F.R. § 63.8(f)(1) requires that with the exception of system breakdowns, repairs, calibration checks, and zero and span adjustments required, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.
6. Ohio EPA, delegated authority by EPA, issued PSD Permit to Install 07-00511 (PSD Permit) to Haverhill North Coke on December 11, 2003. The permit was modified to incorporate new bypass PM emission rate limits via administrative modification on June 27, 2006, and January 15, 2008.
7. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, limits bypass venting from units P901 and P902 to 192 hours per bypass vent stack, per rolling 12 month period.
8. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, requires that there shall be no more than one bypass vent stack in use at any time.
9. Part III Section A(I)(1) of the PSD Permit effective December 11, 2003, limits annual SO<sub>2</sub> emissions from unit P901 bypass vents and unit P902 bypass vents to 192 tons/year per unit.
10. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, limits the rate of NO<sub>x</sub> emissions from the unit P902 waste gas stack to 1 pound per ton of coal charged.
11. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, limits PM emissions from each HRSG bypass vent stack to 12.86 pounds per hour. Portsmouth Local Air Agency modified the PSD Permit on June 27, 2006 to incorporate a new bypass PM limit of 17.14 pounds per hour.
12. Part III Section A(I)(1) of the PSD Permit effective December 11, 2003, limits annual PM emissions from unit P901 bypass vents and unit P902 bypass vents to 10.8 tons/year per unit.
13. P902 Section A(III)(7-8) and (40-42) of the PSD Permit effective January 15, 2008 requires the facility to operate and maintain equipment to continuously monitor and record SO<sub>2</sub> and mercury (Hg) emissions from the waste gas stack in pounds per hour, and maintain records of all data obtained by the CEMS and sorbent trap monitoring system, including the concentration and emission rate of SO<sub>2</sub> and mercury from the exhausted gas.

## **Factual Background**

14. Haverhill North Coke owns and/or operates a metallurgical coke plant at 2446 Gallia Pike, Franklin Furnace, Ohio (facility).
15. At the facility Haverhill North Coke operates 200 nonrecovery coke ovens designated as Batteries A, B, C, and D. Haverhill's PSD permit identifies emissions unit P901, or Batteries A and B, as the set of 100 ovens constructed in 2004, and P902, or Batteries C and D, as the set of 100 ovens constructed in 2008.
16. Haverhill North Coke's April 28, 2006 Compliance Demonstration Report showed a PM emission rate of 17.5 pounds per hour coming from bypass vent stack #3.
17. EPA issued a Notice and Finding of Violation to Haverhill North Coke Company on December 10, 2008 alleging violations of waste gas stack SO<sub>2</sub> limits and CEMS standards.
18. Haverhill North Coke submitted EERs to Portsmouth Local Air Agency for the period October 1, 2008 to March 31, 2009, which showed that the downtime for the SO<sub>2</sub> CEMS for P901& P902 for the first quarter of 2009 was 34.4% (65.6 % data capture) and 15.38% (84.62 % data capture), respectively. The monitor downtime for the Hg CEMS for P902 for the fourth quarter 2008 and first quarter 2009 was 18.35% (81.65% data capture) and 11.20% (88.8% data capture), respectively.
19. EPA issued a Notice and Finding of Violation to Haverhill North Coke Company on April 15, 2009 alleging violations of bypass venting standards and emission limits.
20. Haverhill North Coke's April 19, 2009 Compliance Demonstration Report showed a NOx emission rate of 1.3 pounds per ton coming from the P902 waste gas stack.
21. Haverhill North Coke retested the P902 waste gas stack on July 9, 2009 and recorded a NOx emission rate of 0.792 pounds per ton.
22. Portsmouth Local Air Agency issued Notices of Violation to Haverhill North Coke Company on July 17, 2009 and December 11, 2009, alleging violations of the 1 pound per ton waste gas stack NOx emission limit, CEMS operational standards and requirements for SO<sub>2</sub> and mercury monitors, and bypass venting standards.
23. In its December 18, 2009 response to EPA, Haverhill North Coke reported 2955 hours of bypass venting, 642 tons of SO<sub>2</sub>, and 86 tons of PM emitted from the bypass vent stacks since January 1, 2009.

## 2009 Violations of Bypass Venting Operating Standards and Emissions Limits

### Unit P901

Month/ Year	Total Bypass Events (hours) BV1	Total Bypass Events (hours) BV2	Total Bypass Events (hours) BV3	Total Bypass Events (hours) BV4	Total Bypass Events (hours) BV5	Rolling 12-M Total (hours) BV1	Rolling 12-M Total (hours) BV2	Rolling 12-M Total (hours) BV3	Rolling 12-M Total (hours) BV4	Rolling 12-M Total (hours) BV5
01/2009		9.22		1.13	57.3	166.6	139.6	100.2	103	211.3
02/2009	254.4	252.4	263.2*	262.9	294.9	421	392	363.4	365.9	506.2
03/2009	0.12	0.17	0.2	0.28	0.32	421.1	392.1	363.6	366.2	506.5
04/2009	0.73			0.65	0.52	421.9	392.1	263.6	366.8	507
05/2009		0.15	0.17	0.12	0.13	421.9	392.3	263.8	367	353.3
06/2009	141.5*	0.02	0.05	0.29	0.09	396.7	392.1	263.7	367.1	353.2
07/2009		111.3*				396.7	373.3	263.7	367.1	353.2
08/2009	0.49	0.38	0.37	0.27	0.18	397.2	373.7	264	367.3	353.4
09/2009				135.7	0.02	397.2	373.7	264	401.3	353.4
10/2009					0.08	397.2	373.6	263.9	401.3	353.5
11/2009					0.2	397.2	373.6	263.9	401.3	353.7
12/2009						397.2	373.6	263.9	401.3	353.7

### Unit P902

Month/ Year	Total Bypass Events (hours) BV6	Total Bypass Events (hours) BV7	Total Bypass Events (hours) BV8	Total Bypass Events (hours) BV9	Total Bypass Events (hours) BV10	Rolling 12-M Total (hours) BV6	Rolling 12-M Total (hours) BV7	Rolling 12-M Total (hours) BV8	Rolling 12-M Total (hours) BV9	Rolling 12-M Total (hours) BV10
01/2009	1.8	0.97	1.9	2.2	1.8	269	777.2	502.5	310.8	308.01
02/2009						269	777.2	502.5	310.8	308.01
03/2009	153*					421.96	777.22	502.5	310.75	308.01
04/2009		142*	110*			421.96	919.2	612.5	310.75	308.01
05/2009			42.2*	113*	12*	421.96	919.2	654.7	423.73	320.01
06/2009	0.4	1.28	2.51	0.32	140.5*	422.33	920.48	657.21	424.05	460.51
07/2009	0.7	0.73	0.73	0.55	0.55	423.06	921.21	657.94	424.6	461.06
08/2009	0.2		0.23	0.52	0.35	423.26	921.21	658.17	425.12	461.41

\* designates annual HRSG maintenance as part of the 12-month rolling total.

09/2009	98.2			0.02		339.37	733.24	437.36	174.82	240.66
10/2009	351.5	344.3	344.4	352	343.4	684.7	821.5	776.03	521.09	578.22
11/2009						679.9	649.79	546.01	518.14	568.74
12/2009	0.2	0.45			4	606	489.71	502.01	468.59	502.6

2009 Excess SO<sub>2</sub> and PM Emissions from Bypass Vents

Unit	Total Annual SO <sub>2</sub> (tons)	Annual Permit Limit, SO <sub>2</sub> (tons/year)	Percent Exceeding Permit Limit for SO <sub>2</sub>	Total Annual PM (tons)	Annual Permit Limit, PM (tons/year)	Percent Exceeding Permit Limit for PM
P901	196.7	192	102%	16.2	10.8	150%
P902	445.4	192	232%	69.6	10.8	644%

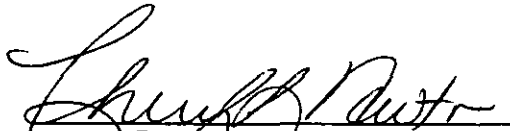
24. Haverhill North Coke's excess bypass venting from units P901 and P902 since January 1, 2009 collectively constitutes 116 rolling months of failure to comply with operational standards as required by Part III Section A(II)(9) of its PSD permit and therefore violates its PSD permit, the Ohio SIP, and PSD regulations promulgated in 40 C.F.R. § 52.21.
25. Haverhill North Coke's excess SO<sub>2</sub> emissions from unit P901 bypass vent stacks constitute violations of Part III Section A(I)(1) of its PSD permit, the Ohio SIP, and 40 C.F.R. 63.6(e)(1)(i).
26. Haverhill North Coke's excess PM emissions from unit P901 bypass vent stacks are violations of Part III Section A(I)(1) of its PSD permit, the Ohio SIP, and 40 C.F.R. 63.6(e)(1)(i).
27. Haverhill North Coke's practice of opening more than one bypass vent stack at one time is a violation of Part III Section A(II)(9) of its PSD permit, the Ohio SIP, and 40 C.F.R. § 63.6(e).
28. Haverhill North Coke's failure to limit PM emissions from bypass vents during the period April 28, 2006 to June 27, 2006 is a violation of Part III Section A(I)(1) of its PSD Permit, the Ohio SIP, and 40 C.F.R. § 63.6(e).
29. Haverhill North Coke's failure to limit NO<sub>x</sub> emission rates from waste gas stacks during the period May 19, 2009 to July 9, 2009 is a violation of Part III Section A(II)(9) of its PSD Permit, the Ohio SIP, and 40 C.F.R. § 63.6(e).
30. Haverhill North Coke's failure to continuously operate and maintain its SO<sub>2</sub> CEMS and Hg sorbent trap monitoring system to monitor SO<sub>2</sub> and Hg emissions from the waste gas stack is

a violation of P901 and P902 Section A(III)(7-8) and (40-42) of its PSD permit, Ohio SIP PSD regulations, and NESHAP regulations at 40 C.F.R. § 63.6(e) and 40 C.F.R. § 63.8 (f)(1).

### **Environmental Impact of Violations**

31. Excess emissions of SO<sub>2</sub> increase the amount of acid rain and public exposure to unhealthy levels of SO<sub>2</sub>. SO<sub>2</sub> reacts with other chemicals in the air to form tiny sulfate particles. Long term exposure to high levels of SO<sub>2</sub> gas and particles can cause respiratory illness, aggravate existing heart disease, and lead to premature death.
32. Violations of particulate emissions standards increases public exposure to unhealthy particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.
33. Excess emissions of NO<sub>x</sub> increase ground level concentrations of ozone and nitrogen dioxide, both of which can cause respiratory inflammation, increased difficulty breathing, and lung damage. NO<sub>x</sub> emissions also contribute to acid rain, global warming, the formation of fine particles in the atmosphere, water quality deterioration, and visibility impairment.

2/17/10  
Date

  
Cheryl L. Newton  
Director  
Air and Radiation Division



## CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-10-OH-09, by Certified Mail, Return Receipt Requested, to:

Haverhill North Coke Company  
John Essman  
2446 Gallia Pike  
Franklin Furnace, Ohio 45629

Anthony Sullivan, Esq.  
Barnes & Thornburg, LLP  
11 South Meridian Street  
Indianapolis, Indiana 46204


I also certify that I sent copies of the Notice of Violation and Finding of Violation by first class mail to:

Cindy Charles  
Portsmouth Local Air Agency  
605 Washington Street, Third Floor  
Portsmouth, Ohio 45662

John Paulian  
Ohio EPA – DAPC  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43215

Cathy Rojko  
U.S. Department of Justice/ENRD  
Environmental Enforcement Section  
P.O. Box 7611, Ben Franklin Station  
Washington, DC 20044

on the 17 day of Feb, 2010.

  
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Loretta Shaffer, Secretary  
AECAS, MN-OH

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8909 7964